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Memorandum

TO: Air Quality Conformity Task Force

DATE: November 16, 2011

FR: Brenda Dix and Sri Srinivasan

W. I.

RE: Defining Minor Fleet Expansion (40 CFR 93.126) Continued

MTC would like the Task Force to revisit the topic of setting a threshold for “minor fleet expansion” in the Bay Area in order to allow project sponsors to take advantage of the exemption code 40 CFR 93.126 - “Mass Transit – Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet.” MTC and FTA believe that the Bay Area is disadvantaged by not being able to fully use the exemption, and we look to EPA/USDOT to decide upon a specific threshold for our region that is a reasonable exemption while remaining within the language of the exemption code.

Disproportionate Burden on Small Operators

The current system of requiring all fleet expansion projects to come before the Task Force places an unfair burden on small operators. Currently, the Task Force tends to look to past informal guidance from FTA that stated that a fleet expansion of 25%; however, for the multitude of small transit operators in the Bay Area, even one bus exceeds the 25% threshold, thus not allowing them to take advantage of the exemption code.

By not permitting these small operators to take advantage of exemption code 40 CFR 93.126 not only are they required to provide more detailed documentation to the Task Force which takes time and resources for them to assemble, but it also requires them to go through a much longer TIP amendment process. It is fairly common for this extended process to hamper the ability of small operators to expend their funds and expand their service.

Establishes Consistency

It is an additional concern to MTC and FTA that if a standard is not determined then as Task Force members change, different opinions about minor expansions will arise and the process will be inequitable to project sponsors. Hence, defining a standard for the region will help alleviate this concern. This also allows sponsors to have a better understanding and expectation of what changes will trigger an administrative modification versus a formal amendment.

Suggested Threshold

It is advised that the Task Force selects to be consistent with the current TIP revision process cost change thresholds, which currently allows a cost change of up to 40% of the total project cost or \$10 million (whichever is more restrictive). The standard would be as follows: Transit operators should be allowed to increase their fleet size by 40% as long as the cost thresholds are also met. This would still restrict the large operators from adding more than 20 or 25 buses to their fleet.

Advised Action Before Task Force Meeting

MTC would like to suggest that a call between EPA, FHWA, and FTA be organized before the November 30th Task Force meeting if at all possible to discuss this issue. That will hopefully allow for final resolution of this topic at the Task Force meeting.

At a later date, it would be beneficial if this item could be taken to the statewide conformity group to achieve a state wide definition of the threshold that would ideally be consistent with what is decided by the Task Force for the Bay Area.

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